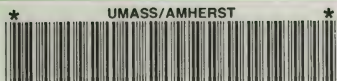


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**PATIENT ABUSE
IN
LONG-TERM CARE FACILITIES**
AN EXPLANATION OF THE PATIENT ABUSE STATUTE

**DIVISION OF HEALTH CARE QUALITY
Massachusetts Department of Public Health**

March 1984



**PATIENT ABUSE
IN
LONG-TERM CARE FACILITIES**
AN EXPLANATION OF THE PATIENT ABUSE STATUTE

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Michael S. Dukakis, Governor
John Mudd, Acting Secretary of Human Services
Bailus Walker, Jr., Ph.D., M.P.H., Commissioner of Public Health
Irene R. McManus, M.P.H., Director, Division of Health Care Quality

A Message to Consumers

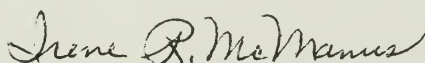
The Department of Public Health is charged with protecting the public's health and safety throughout the Commonwealth. The Division of Health Care Quality is responsible for monitoring the quality of care in health care facilities and responding to complaints about services and conditions in those facilities.

A problem of deep concern to the Division is the increasing incidence of patient abuse, mistreatment and neglect in long-term care facilities. Despite marked improvement in the quality of care provided in nursing and rest homes, the increase in reported instances of abuse continues. The Patient Abuse Statute, enacted by the Legislature in 1980, is one of the tools the Division utilizes to respond to and investigate such reports.

The law defines abuse, mistreatment, and neglect; who should report; what procedures are followed; and what actions may be taken to protect victims from harm. Under the law, the Division is not alone in its efforts to confront this problem; it is the responsibility of all who provide care for patients and residents in long-term care facilities. The Division's role is unique, however, because the law requires that all suspected cases of abuse, mistreatment, or neglect in long-term care facilities be reported to the Division for investigation and initiation of enforcement action, when appropriate.

You are encouraged to familiarize yourself with the law and to utilize the Division's services so that together we may provide better protection for this vulnerable population.

Sincerely,

A handwritten signature in cursive script, reading "Irene R. McManus".

Irene R. McManus, M.P.H.

Director, Division of Health Care Quality

The Patient Abuse Statute

The Patient Abuse Statute was enacted by the Massachusetts Legislature in 1980 to protect patients or residents in long-term care facilities from abuse, mistreatment or neglect.

The law specifically designates the Department of Public Health, through its Division of Health Care Quality, to receive reports of suspected cases of abuse, mistreatment or neglect; to investigate and evaluate information found in such reports; and to notify the Attorney General of its receipt of such reports and its findings. The Division of Health Care Quality, the Department's patient protection arm, has established a **Compliance Unit** for the purpose of: receiving, investigating and monitoring patient abuse complaints and initiating appropriate enforcement action. The Division has also developed guidelines for defining and identifying abuse, mistreatment, and neglect as well as procedures for reporting such cases.

This booklet is designed to explain the Patient Abuse Statute so that both the public and health care providers will have an understanding of the patient protection mechanisms provided by the law, the role of public agencies and the responsibilities of those who provide care for persons in long-term care facilities.

What is Patient Abuse, Mistreatment or Neglect?

The statutory definitions are:

Abuse - physical contact which harms or is likely to harm the patient or resident.

Mistreatment - use of medications, isolation, or use of physical or chemical restraints which harms or is likely to harm the patient or resident.

Neglect - failure to provide treatment and services necessary to maintain the health and safety of the patient or resident.

Facility - nursing home, rest home, convalescent home, charitable home for the aged, infirmary maintained in a town, or a community based intermediate care facility for the mentally retarded.

Who is required, under the statute, to report cases of abuse, mistreatment or neglect?

The following individuals are required by law to make a report to the Division of Health Care Quality whenever they suspect that a patient or resident in a long-term care facility has been abused, mistreated or neglected:

- (a) Physicians
- (b) Medical Interns
- (c) Registered Nurses
- (d) Licensed Practical Nurses
- (e) Nurses Aides
- (f) Orderlies
- (g) Medical Examiners
- (h) Dentists
- (i) Optometrists
- (j) Opticians
- (k) Chiropractors
- (l) Podiatrists
- (m) Coroners
- (n) Police Officers
- (o) Speech Pathologists
- (p) Audiologists
- (q) Social Workers
- (r) Pharmacists
- (s) Physical Therapists
- (t) Occupational Therapists
- (u) Health Officers
- (v) Any other individual who is paid for caring for a patient or resident of a long-term care facility.

These individuals have a legal obligation to report suspected abuse, mistreatment or neglect in a long-term care facility to the Division of Health Care Quality.

Any individual who is not included in the list above **should** report suspected abuse, mistreatment, or neglect of a patient or resident in a long-term care facility to the Division of Health Care Quality, even though he or she is not specifically required to do so by law.

What if I am not certain that abuse, mistreatment, or neglect has occurred?

You should make a report of suspected patient abuse, mistreatment, or neglect to the Division of Health Care Quality, whenever you have reasonable cause to believe that a patient or resident in a long-term care facility has been abused, mistreated, or neglected.

You are **not** required to have conclusive proof before reporting the matter to the Division, it is only necessary that the information, if true, is enough to support a reasonable, good-faith belief that abuse, mistreatment or neglect **may** have occurred. A reporting individual is neither required, nor encouraged, to conduct a detailed investigation of his or her own before making such a report.

What if I suspect that abuse, mistreatment, or neglect has occurred in a facility other than those specifically defined in the Statute?

Even though the state Patient Abuse Statute does not address abuse, mistreatment, or neglect of patients or residents in other types of health care facilities, if you have information which leads you to believe that abuse, mistreatment or neglect has occurred in such a facility, you should not hesitate to report the matter to the Division of Health Care Quality. If the facility is subject to licensure or certification by the Department, the Division of Health Care Quality will investigate the matter and take appropriate enforcement action. If not, or if the issue is more appropriately addressed by another agency, the Division of Health Care Quality will refer you to the proper agency.

Will my report to the Department of Public Health remain confidential?

Yes. Your identity will not be disclosed to anyone at any time without your prior written authorization. Only staff

personnel of the Department of Public Health, the Department of the Attorney General, or the appropriate professional board of registration will know this information, for use in investigative purposes.

If I report a suspected case of abuse, mistreatment, or neglect (as the law requires me to do as a provider of care in a long-term care facility) will I be in jeopardy of losing my job?

The Statute prohibits a long-term care facility from firing, discriminating against, or retaliating against any individual (including a patient or resident) who:

- (a) Makes a report of suspected patient abuse, mistreatment, or neglect to the Division of Health Care Quality in good faith; or
- (b) Provides the Division of Health Care Quality with any relevant information, testimonial or otherwise, during the course of any investigation of any report of suspected patient abuse, mistreatment, or neglect.

How and where should a report of a suspected case of abuse, mistreatment, or neglect be made?

When you have information which leads you to believe that abuse, mistreatment, or neglect has occurred, you should immediately report that information to the Division of Health Care Quality by telephone to: **(617) 727-8985** or **toll-free 1-800-462-5540** (Monday through Friday, 9:00 a.m. to 4:45 p.m.) or **(617) 522-3700** (evenings and weekends). Following the telephone report, you must send a written letter to the Division within 48 hours after the telephone report is made containing all of the available information. This letter should be sent to: **Patient Complaint Unit, Division of Health Care Quality, 150 Tremont Street, 2nd Floor, Boston, MA 02111.**

What information must be provided in the report?

When you make a report of suspected abuse, mistreatment or neglect to the Division, the report should include the following information:

- Name, sex, and age of the patient or resident allegedly abused, mistreated, or neglected.
- Name and address of the facility.
- Name and address of the reporting individual, along with information on where he or she can be contacted.
- Information about the nature, extent, cause, and person(s) responsible for the alleged abuse, mistreatment or neglect.
- Circumstances under which the reporting individual became aware of the alleged abuse, mistreatment, or neglect.
- Information about prior incidents involving the patient or resident in question.
- Information about any corrective action taken or treatment given to the patient or resident in question.

How will the Department of Public Health investigate complaints of patient abuse?

The Division will conduct a timely investigation through interviews with: the patient or resident suspected to be the victim, person(s) allegedly responsible for the action, and other potential witnesses. The Division will also examine medical records and other facility documents. The Division will evaluate the findings and determine whether the complaint is justified. The Division will notify the Department of the Attorney General's Medicaid Fraud Control Unit of all reports of suspected patient abuse. That office will decide whether to conduct a criminal investigation.

What action will the Department of Public Health take if it finds that a patient in a long-term care facility is in serious danger?

If the Division of Health Care Quality finds that a patient or resident has suffered serious harm, or that the health or safety of a patient or resident in a facility is in jeopardy as a result of abuse, mistreatment, or neglect, the Division will immediately initiate action necessary to ensure patient safety. Such patient protection action may include: monitoring of patient care by Division staff, requiring the facility to take immediate corrective action, imposing a freeze on admissions to that facility pending correction, initiating Medicaid decertification proceedings and/or initiating license suspension or revocation proceedings.

Who can receive a copy of the Division's final complaint investigation?

The Division will send a copy of its investigation report to the facility. Any material that would permit identification of the reporting individual will be deleted from this report. In addition, a copy of the report (with identification information deleted) may be made available to the following individuals only upon written request and with the approval of the Commissioner of Public Health or his designee: the patient or resident in question, legal counsel for the patient or resident, the reporting individual, appropriate professional registration board, or the social worker assigned to the patient or resident's case.

**TO REPORT A SUSPECTED CASE OF
PATIENT ABUSE,
MISTREATMENT OR NEGLECT**

**WRITE: PATIENT COMPLAINT UNIT
DIVISION OF HEALTH CARE QUALITY
150 Tremont Street, 2nd Floor
Boston, MA 02111**

**CALL: (617) 727-8985 (9-5, Monday - Friday)
(617) 522-3700 (Evenings and Weekends)**

1-800-462-5540

**All telephone inquiries must be followed by a
written complaint.**

**All complaints are investigated and information
remains confidential.**

**IF YOU HAVE A QUESTION ABOUT OTHER
REGULATIONS IN A LONG-TERM CARE FACILITY
CALL THE DIVISION'S INFORMATION LINE:**

Surveyor of the Day: (617) 727-5860

1-800-462-5531